

**TOWN COUNCIL OF DEWEY-HUMBOLDT
REGULAR MEETING NOTICE**

Tuesday, September 4, 2012, 6:30 P.M.

**COUNCIL REGULAR MEETING
2735 S. HWY 69**

**COUNCIL CHAMBERS, TOWN HALL
DEWEY-HUMBOLDT, ARIZONA**

AGENDA SUMMARY

1. **Call To Order.** The meeting was called to order at 6:30PM.
2. **Opening Ceremonies.**
 - 2.1. **Pledge of Allegiance.** Made.
 - 2.2. **Invocation.** Given by Councilmember Wright.
3. **Roll Call.** Town Council Members David Hiles, Dennis Repan, Denise Rogers, Nancy Wright; Vice Mayor John Dibble; and Mayor Terry Nolan were present; Council Member Mark McBrady was absent.
4. **Announcements Regarding Current Events, Guests, Appointments, and Proclamations.**

Announcements of items brought to the attention of the Mayor not requiring legal action by the Council. Guest Presentations, Appointments, and Proclamations may require Council discussion and action.

None.

5. **Town Manager's Report.** Update on Current Events.

Town Manager Yvonne Kimball mentioned the Humboldt Water System violation notification of exceeding levels of arsenic in the water. She stated the Humboldt Elementary School principal shared his concern and parent's concern with her about this issue and asked what the Town plans to do. Town Manager Kimball stated the water company is a private company and has no affiliation with the Town so there is nothing we can do at this moment. Town Manager Kimball wanted the Council to be aware that the community is concerned about this matter.

6. **Consent Agenda.**

- 6.1. **Minutes.** Minutes from the August 21, 2012 Regular Council meeting.

Councilmember Wright stated she had a slight correction on page 5 about her apology; it was in regards to a statement that Councilmember Wright thought had been made, not a vote.

Councilmember Wright made a motion to accept the minutes as amended, seconded by Vice Mayor Dibble. The motion passed unanimously.

7. **Comments from the Public (on non-agendized items only).**

Sandra Goodwin spoke in favor of the Town newsletter; it contributes a great deal to the community about what is going on and she thanked the Council.

Jack Hamilton expressed his support for Council training and suggested each Councilmember write down two or three main ideas they learn at training and give to the Town Manager to distribute in order to share as much learned information as possible.

Rose Eitemiller spoke on the Humboldt Water System; the Town should be involved and support the

community.

8. **Discussion Agenda – Unfinished Business.** Discussion and Possible Action on any issue which was not concluded, was postponed, or was tabled during a prior meeting.

8.1. Resolution 12-103 to reflect decisions regarding Humboldt Station Properties.

Discussion and possible action.

Town Manager Kimball stated this item was previously discussed with the Town Attorney at the August 14th meeting regarding purchasing the Humboldt Station property; the attorney drafted a resolution to review.

Councilmember Rogers spoke against the words eminent domain in the resolution.

Public comment was taken on this item.

Jack Hamilton spoke in favor of the Town looking for a new building and would like to see the resolution expanded to include more properties.

Bob Greene spoke in favor of finding a suitable location for Town Hall but does not support buying the current location; consider leasing property from the Bureau of Land Management or the State for 99 years; consider a Town Hall complex so equipment is stored at same location, saving employee productivity; future needs; current buildings will become a maintenance nightmare in the future; consider a new building.

Earl Goodwin suggested best practice for Towns is never to own its Town Hall; no need to bring private sector business into Town's management structure; future is unknown - future Town Councils, employee count, best location for Town center; not in the business of being landlords; taking a property off the tax rolls means those taxes are shifted to everyone else in town.

Jerry Brady spoke on available funds for community development when the Town has a plan to remediate the Iron King mine site from US Department of Agriculture Rural Economic Development Commission; possible use of the site for a Town Hall and other facilities of that type.

David Nystrom reminded Council that they went down this path already and decided not to purchase this building because it did not make sense and spoke against pursuing a new Town Hall at this time.

Mayor Nolan stated this is for discussion and to look at property, have it appraised, see what it is worth, but not buying anything yet.

Councilmember Wright spoke against the resolution, stating once there is an appraisal the Council will feel obligated to do something. She stated it puts Council in an awkward position because the seller is a Councilmember.

Councilmember Rogers made a motion to remove eminent domain from the resolution, seconded by Vice Mayor Dibble.

Town Manager Kimball stated she could consult the attorney about the wording of the resolution as there may be a reason it is worded as such. There was discussion about eminent domain, Town purchasing requirements and looking at other properties.

Councilmember Hiles made a motion to pass the resolution as it is worded, seconded by Councilmember Repan. The motion failed by a 3-3 vote with Councilmembers Rogers, Wright, and Vice Mayor Dibble voting against, and Councilmember McBrady absent.

Vice Mayor Dibble withdrew his second on the motion to remove eminent domain from the resolution.

8.2. Discussion of Proposed Joint Council and P&Z Meeting. Continued from August 21st meeting. [CAARF-Request by CM Repan] Discussion and possible action.

Councilmember Repan stated he was looking for specifics as to what will be discussed at the joint meeting with Planning & Zoning regarding the sign code so all can be better prepared for the meeting. He noted at the last Planning & Zoning meeting one of the Commissioners made a suggestion to take the sign code and bring an iteration back to P&Z for review.

Councilmember Wright agreed with Councilmember Repan and stated it is P&Z's job; they have had the sign code for two years and need to finish it; suggested P&Z should meet longer or more than once a month; Council already met jointly with P&Z in April and told them what Council thought was important.

Public comment was taken on this item.

Jack Hamilton spoke on Council not understanding they have an effect on the community and trying to run everything without delegating; lost two members on Planning and Zoning, two members on OSAT, did away with BOA; community is not involved and people leave when they realize their input is not wanted.

Jerry Brady spoke in support of notebook computers for Town Council; ability to make individual recommendations and integrate them into a document, giving concise direction.

Councilmember Repan made a motion to remove the proposed joint meeting from the agenda until Council sees the iteration of what P&Z is currently working on, seconded by Councilmember Wright. The motion passed by a 5-1 vote with Mayor Nolan voting against and Councilmember McBrady absent.

8.3. Old Black Canyon Highway right-of-way acquisition, ownership and maintenance issues. "Next Step" discussion and possible action.

Town Manager Kimball state the attorney contacted four companies for the Town and received four quotes, two of which are piecemeal approach, one low and one high bid.

Councilmember Hiles made a motion to go with the lowest bid, seconded by Councilmember Dibble.

There was discussion regarding the specifications that the attorney provided and if the companies knew exactly what the Town was asking for. Town Manager Kimball stated the

attorney's office handled all aspects of this request at their request so they could be consistent. Town Manager Kimball can clarify that information from the attorney.

Public comment was taken on this item.

Jerry Brady spoke on the attorney's recommendation to get a title abstract at a previous meeting; complex ownership history; recommended getting a title abstract.

Bob Greene stated he has obtained all of the records from the Black Canyon Highway Association which is now in the hands of the Dewey-Humboldt Historical Society; the Town might want to borrow them for research.

The motion to go with the lowest bid passed by unanimous vote.

8.4. Dewey-Humboldt Historical Society Boiler Location Conflict Update. Discussion and possible action.

Town Manager Kimball spoke on the Dewey-Humboldt Historical Society boiler conflict, stating the third party survey the Town conducted on the Second Street right-of-way showed a 70-foot wide right-of-way instead of a 50-foot wide right-of-way as Staff previously thought; the entire boiler is located on public right-of-way; that property has been using the Town right-of-way for parking. Town Manager Kimball gave three options: 1) remove the boiler completely, but need to deal with the parking issue; 2) enter agreement with the Historical Society; draft license agreement as opposed to lease agreement; Council would have to decide on terms for fencing, parking, access to public utilities, etc.; 3) abandon the right-of-way which Staff does not recommend.

Councilmember Repan inquired about the 30 foot issue under the license agreement and if it would take care of the boiler. Town Manager Kimball confirmed it would.

Vice Mayor Dibble made a motion to go with option 2, the license agreement, seconded by Councilmember Rogers.

Councilmember Wright spoke on her understanding that Staff was supposed to handle this as a code enforcement issue and now it is back in front of Council when staff should be enforcing the code. Town Manager Kimball explained that the survey came back with findings not as expected and thought she should inform the Council since they have expressed support for the Historical Society.

Vice Mayor Dibble spoke in favor of Staff bringing this item back to Council that there was a change in what was originally thought and hopes in the future they will continue to do so; wants an easier process, a friendlier town and has high hopes for the historical museum.

Councilmember Hiles stated option 2 seemed a reasonable resolution and called for a question. The question failed by a 5-1 vote with Councilmember Hiles voting in favor and Councilmember McBrady absent.

Public comment was taken on this item.

Bob Greene spoke on license versus lease agreements.

Rose Eitemiller spoke on parking on the right-of-way was not an issue when it was a church; the Town has more important things to consider such as roads and water.

Jerry Brady spoke on seeing the survey map; established pattern of use at the location; the findings of a title abstract would be surprised.

David Nystrom expressed his appreciation for Council trying to resolve the issue and suggested the Historical Society take the lead in resolving this issue instead.

The motion to go with option 2, the license agreement, passed by a 5-1 vote with Councilmember Wright voting against and Councilmember McBrady absent.

8.5. Butte Street Park related acquisitions. Discussion and possible action/direction.

Open Space and Trails Committee Chairperson Sandra Goodwin stated that Council was familiar with this information and the layout of the park as it is not the first time they have seen it. OSAT was able to add two trash cans because of the great prices from Arizona Correctional Industries.

Councilmember Wright asked if the park would be wheelchair accessible. Ms. Goodwin stated the plan is to make it wheelchair accessible; there is handicap parking at one end of the park and when the park is finished there will be a path leading from the handicapped parking through the park.

Councilmember Repan made a motion to direct staff to proceed with the purchase order for park equipment, seconded by Vice Mayor Dibble.

Ms. Goodwin stated the park equipment will be anchored with chains and cemented into the ground to secure them.

Councilmember Rogers asked Ms. Goodwin to let her know the grand opening date by the middle of this month for the Town newsletter.

The motion to direct staff to proceed with the purchase order for park equipment passed unanimously.

9. Discussion Agenda – New Business. Discussion and Possible Action on matters not previously presented to the Council.

9.1. Yavapai County Finance Department Missing Payment Request for Sheriff Services. Review, discussion and possible action.

Town Manager Kimball stated Yavapai County notified the Town that there was a missing payment in 2010 for services already rendered; Accountant Deni Thompson verified the missing payment in the amount of \$28,702. Town Manager Kimball stated it has to come out of the Contingency Fund due to the dollar amount.

Councilmember Rogers asked how it happened. Town Manager Kimball stated the County just recently found the missing payment. Ms. Thompson located documents from FY09/10 where the

process was to pay for service provided at the end of the month. In FY10/11 the agreement changed and the County requested payment ahead of service. With the change in schedule it may have been missed.

Councilmember Repan asked if there was any penalty accrual. Town Manager Kimball replied no.

Councilmember Repan made a motion to pay this item out of the contingency fund, seconded by Councilmember Wright. The motion passed unanimously.

9.2. Town Housing Rehabilitation Program Issue. Discussion and possible action.

Town Manager Kimball received a letter regarding a CDBG housing rehabilitation grant funded project; the recipient is no longer in good health and will be moving out of the residence. Town Manager Kimball stated NACOG suggested Staff handle this matter.

There was discussion about Staff handling the matter and NACOG's role in administering the grant.

Councilmember Hiles made a motion to authorize Staff to handle this matter, seconded by Councilmember Repan.

Public comment was taken on this item.

Jerry Brady spoke on fiduciary responsibility to administer the grant; penalties for early release of the property; ADA requirements; appropriate for staff to consult with NACOG.

The motion to authorize Staff to handle this matter passed unanimously.

9.3. Discussion and possible action on the amount of time allowed for public comment on any agenda item – non-agendized, individual agenda items and public comment. [CAARF-Request by CM Wright]

Councilmember Wright spoke in favor of public comment but stated 3 minutes should be sufficient for each speaker; one speaker should not have 1 minute and another speaker allowed 5 minutes; time limit should be imposed on every speaker.

Councilmember Rogers spoke in favor of receiving public comment but sometimes it could be briefer and sometimes becomes more of a conversation.

Public comment was taken on this item.

Bob Greene spoke in favor of the 3 minute time limit; take a serious look at the 20 minute total comment time at the end of the meeting; if there are 150 people at the meeting, they cannot all be heard.

Jack Hamilton spoke in favor of the 3 minute time limit; if 150 people want to speak, 20 minute limit should not apply.

Jerry Brady spoke in favor of the 3 minute time limit; enact a new ordinance to change it; Modern Rules of Order has instructions on how to proceed.

David Nystrom spoke on 3 minutes being sufficient time; Council also has email and a mailbox at Town Hall; extend time limit if someone has special or unique information that Council wants to hear or deems useful; Town Council should be diligent about comments being on topic.

There was discussion about the 20 minute time limit. Councilmember Wright stated when citizens have similar comments the group could choose a spokesman to speak for the group.

Councilmember Wright made a motion to limit all public comment to 3 minutes per person, per agenda item, seconded by Councilmember Rogers.

Councilmember Wright amended the motion to remove #7, public comment on non-agendized items, and allow 3 minutes public comment per agenda item per person. The motion failed for lack of a second.

The motion to limit all public comment to 3 minutes per person, per agenda item passed with a 5-1 vote with Mayor Nolan voting against and Councilmember McBrady absent.

9.4. Discussion and possible action to direct staff to start an index of attorney opinions/issues for the Town. [CAARF-Request by CM Wright]

Councilmember Wright spoke on correspondence received from the attorney; when a new Council comes in they may have the same questions for which an opinion may have already been paid for by the Town; creating an index to look through would be helpful for Council and Staff.

There was discussion on the logistics of creating an index of correspondence; building prior years' information as well as current and future years; newly-elected Councilmembers able to review previous years' information. Town Manager Kimball stated Staff will be able to produce an index for correspondence since she started; previous years' information will take some research.

Public comment was taken on this item.

Jack Hamilton spoke on the intent of an index is for opinions going forward, to build it for the future.

Bob Greene spoke on wording the motion properly because of counsel/client privilege and the index becoming open to the public.

Jerry Brady spoke on creating an index and it becoming a public record.

Councilmember Repan made a motion to get an opinion from the Town Attorney if an index is something the Town can consider and how to approach it. Councilmember Repan amended the motion to include finding out whether the documents become public record, seconded by Mayor Nolan. The motion passed by a 5-1 vote with Councilmember Hiles voting against and Councilmember McBrady absent.

9.5. Release of Privileged Council/Client Memo from Town Attorney dated 8/16/12: Medical Marijuana-9th Circuit Decision. [CAARF-Request by CM Repan]

Councilmember Repan stated the privileged Council/Client memo from the Town Attorney on 8/16/12 regarding medical marijuana should go to Planning & Zoning because Council has directed them to look at the medical marijuana issue; it would be beneficial for P&Z and the general public.

Councilmember Repan made a motion to release said memo to the general public and Planning and Zoning, seconded by Councilmember Hiles. The motion passed unanimously.

10. Public Hearing Agenda. None.

11. Comments from the Public.

Bob Greene recommended Council be very specific when making a motion so Staff has clear direction; simple decisions can mean a more efficiently run town.

Jack Hamilton spoke on the frequency of contacting the attorney, the cost of doing so and impact on the budget.

Jerry Brady spoke on public participation at public meetings.

12. Adjourn. The meeting was adjourned at 9:01PM.